

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

BRUCE WINSTON GEM CORP.,

Plaintiff,

v.

HARRY WINSTON, INC. and  
HARRY WINSTON S.A.,

Defendants.

“ECF CASE”

Civil Action No. 09 CV 7353 (JGK)

**DECLARATION OF JOSHUA  
BROITMAN IN OPPOSITION TO  
DEFENDANTS’ MOTION TO DISMISS**

JOSHUA BROITMAN declares pursuant to 28 U.S.C. §1746:

1. I am an attorney admitted to practice in the State of New York and in the Southern District of New York, and a partner in the firm of Ostrager Chong Flaherty & Broitman P.C., counsel for plaintiff Bruce Winston Gem Corp. (“BWG”), and submit this Declaration in opposition to defendants’ motion to dismiss the amended complaint in this action.

2. Attached as Exhibit 1 hereto is a true and accurate copy of the docket entry list from U.S. Trademark Opposition No. 91153147 between BWG and defendants (the “TTAB Proceeding”), printed from the U.S. Patent and Trademark Office’s Trademark Trial and Appeal Board’s website (“ttabvue.uspto.gov”) on December 1, 2009.

3. Attached as Exhibit 2 hereto is a true and accurate copy of the TTAB’s April 13, 2009 Order denying defendant’s motion for summary judgment in the TTAB Proceeding.

4. Attached as Exhibit 3 hereto is a true and accurate copy of the TTAB’s July 27, 2009 Order extending the trial schedule in the TTAB Proceeding.

5. Attached as Exhibit 4 hereto is a true and accurate copy of the TTAB's August 21, 2009 Order suspending the TTAB Proceeding in view of the present civil court action.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: New York, New York  
December 4, 2009



JOSHUA BROITMAN

CERTIFICATE OF SERVICE

I hereby certify that, on the same date of execution of this Certificate, a copy of the foregoing DECLARATION OF JOSHUA BROITMAN IN OPPOSITION TO DEFENDANTS' MOTION TO DISMISS was served by depositing same in the United States mail, first-class postage prepaid, addressed to:


Joseph R. Dreitler, Esq.  
Mary R. True, Esq.  
BRICKER & ECKLER, LLP  
100 S. Third Street  
Columbus, OH 43215

- and -

Roger L. Zissu, Esq.  
Jason D. Jones, Esq.  
FROSS ZELNICK LEHRMAN  
& ZISSU, P.C.  
866 United Nations Plaza  
New York, NY 10017

*Attorneys for Defendants  
Harry Winston, Inc. and  
Harry Winston S.A.*

Dated: New York, New York  
December 4, 2009

  
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Roberto L. Gomez